

1 KEKER & VAN NEST, LLP  
2 DARALYN J. DURIE - #169825  
3 CHRISTA M. ANDERSON - #184325  
4 DAN JACKSON - #216091  
5 ROSE DARLING - #243893  
6 710 Sansome Street  
7 San Francisco, CA 94111-1704  
8 Telephone: (415) 391-5400  
9 Facsimile: (415) 397-7188

10 Attorneys for Defendants  
11 GAP INTERNATIONAL SALES, INC., THE GAP, INC.,  
12 BANANA REPUBLIC, LLC, and OLD NAVY, LLC

13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
SAN FRANCISCO DIVISION

GABANA GULF DISTRIBUTION, LTD., a company organized under the laws of the United Kingdom, and GABANA DISTRIBUTION, LTD., a company organized under the laws of the United Kingdom,

Plaintiffs,

v.

GAP INTERNATIONAL SALES, INC., a Delaware corporation, THE GAP, INC., a Delaware corporation, BANANA REPUBLIC, LLC, a Delaware limited liability company, and OLD NAVY, LLC, a Delaware limited liability company,

Defendants.

Case No. C 06 2584 CRB (EDL)

**[JOINT PROPOSED] ORDER REGARDING DEFENDANTS' MOTION FOR AN ORDER UPHOLDING THEIR CONFIDENTIALITY DESIGNATIONS UNDER THE PROTECTIVE ORDER**

Date: June 26, 2007  
Time: 9:00 a.m.  
Place: Courtroom E, 15th Floor  
Judge: Hon. Elizabeth D. Laporte  
  
Date Comp. Filed: April 14, 2006  
  
Trial Date: December 3, 2007

1 Defendants Gap International Sales, Inc., The Gap, Inc., Banana Republic, LLC, and Old  
 2 Navy, LLC (collectively "Gap") brought a motion for an order upholding their confidentiality  
 3 designations under the parties' stipulated protective order, which came on for hearing on June  
 4 26, 2007. The motion is GRANTED IN PART and DENIED IN PART, subject to the following  
 5 provisions and the Court's statements on the record during the hearing. In particular, at the  
 6 hearing, the Court ordered the parties to meet and confer and develop a protocol for resolving  
 7 their dispute relating to whether Gap's confidentiality designations are proper, subject to certain  
 8 guidelines set by the Court during the hearing.

9 The guiding principles ordered by the Court in relation to confidentiality designations are  
 10 as follows:

- 11 1. Stale information shall not be designated confidential;
- 12 2. Photographs of public places are not confidential unless they reflect non-stale  
 13 proprietary or trade secret information;
- 14 3. Compilations of purely public information are not confidential; and
- 15 4. Gap may apply confidentiality designations at the document level, unless Gabana  
 16 identifies a particular need to have a portion(s) of a document de-designated.

17 The parties have agreed that the protocol for conducting the meeting and conferring  
 18 relating to those documents designated by Gap as highly confidential or confidential and which  
 19 were the subject of this motion is as follows:

20 1. Gabana will first identify to Gap by letter the highly confidential documents as to  
 21 which Gabana challenges the highly confidential designation. Within ten days of receipt of the  
 22 letter, the parties will schedule an in-person meeting to attempt to resolve informally the dispute  
 23 with respect to these documents. If there are any remaining disagreements following said  
 24 meeting, the parties will agree on a briefing schedule to raise these remaining issues with the  
 25 Court.

26 2. Following completion of the above process with respect to highly confidential  
 27 documents, the parties will meet and confer regarding Gap's confidentiality designations, but

1 only with respect to documents predating 2005 and constituting or mentioning communications  
 2 with Gabana, Roots, Al Turki, RSH or Solka. The parties will schedule an in-person meeting to  
 3 seek to resolve informally any disputes concerning these identified documents. If there are any  
 4 remaining disagreements following said meeting, the parties will agree on a briefing schedule to  
 5 raise these remaining issues with the Court.

6       3. The parties will not bring any matter to the Court pursuant to the above paragraphs  
 7 without having a final telephone call where the party wishing to submit the matter to the Court  
 8 attempts one last meet and confer and then informs the other party that the meeting and  
 9 conferring is complete.

10      4. Pending resolution of the above meet-and-confer efforts, and any subsequent motion  
 11 practice, the documents Gap designated as "Confidential" and "Highly Confidential" shall be  
 12 treated as such under the parties' stipulated protective order of November 28, 2006.

13      5. Gap shall have seven (7) days from the entry of this order to identify those documents  
 14 that are the subject of Gabana's Miscellaneous Administrative Request to File Documents Under  
 15 Seal (docket no. 94), concerning exhibits V, W, X, BB, DD, EE, II, and KK—NN to the  
 16 Declaration of G. Steven Fender, for which Gap wishes to withdraw its confidentiality  
 17 designation.

19           **IT IS SO ORDERED.**

21 Date: July 5, 2007

